

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

Dakota Access, LLC
Dakota Access Pipeline Project
Siting Application

CASE NO. PU-14-842

**[PROPOSED] AMENDED FINDINGS OF FACT, CONCLUSIONS OF
LAW AND ORDER**

May 24, 2016

Appearances

Commissioners Julie Fedorchak, Randy Christmann, and Brian P. Kalk.

Lawrence Bender and Danielle M. Krause, Attorneys at Law, Fredrikson & Byron, P.A., 1133 College Drive, Suite 1000, Bismarck, North Dakota 58501, and Brian Bjella and Blaine Johnson, Attorneys at Law, Crowley Fleck PLLP, 100 West Broadway, Suite 250, Bismarck, North Dakota 58501, on behalf of Dakota Access, LLC.

Zachary E. Pelham, Special Assistant Attorney General, 314 East Thayer Avenue, Bismarck, North Dakota 58502, on behalf of the Public Service Commission.

Derrick Braaten, Attorney at Law, Baumstark Braaten Law Partners, 109 North Fourth Street, Suite 100, Bismarck, North Dakota 58501, and Matt J. Kelly, Tarlow and Stonecipher, PLLC, 1705 West College Street, Bozeman, Montana 59715, on behalf of Intervenor Douglas Ferebee, Dale Ferebee, Lois Ferebee, John Schultz, Hildegard Steckler, Joel Johnson, John Steckler, Thomas L. Tuhy, Lois Wanner, Grant Johnson, Jeff Renner, Angie Renher, Edward Clive, Patricia G. Pelton, Vernon J. Leingang, Dennis Kunkel, Paula Jo A. Wanner, Adam J. Wanner, Leo Reisenauer, Karen Reisenauer, Robert J. Slavick, Kathleen Schmaltz, Timothy Wasen, Roberta Wasen, Russell J. Kunkel, Nina Filibeck, Michael L. Hapt, Bonnie Hapt, Michael Isaak, Janice Isaak, Gordon Kroh, Wesley Kroh, Eldon Kroh, Daniel H. Neurohr, Charlotte Neurohr, Delbert Zarr, Larry Erdmann, Hollis Erdmann, Zane Voigt, Alice Voigt, Florence Bessaw, Joann Payne, Mary Jane Miller, Doug Hille, Janet Anderson, Gail Howard, Milton O. Lindvig, and Jerome Rice.

Bryan L. Giese, Attorney at Law, 107 First Avenue Northwest, Mandan, North Dakota 58554, on behalf of Intervenor Douglas E. Bopp.

Bryan Van Grinsven, Attorney at Law, McGee, Hankia & Backes, P.C., 2400 Burdick Expressway East, Suite 100, Minot, North Dakota 58701, on behalf of Intervenor North Dakota Pipeline Company, LLC.

Wade C. Mann, Administrative Law Judge, Office of Administrative Hearings, 2911 North 14th Street, Suite 303, Bismarck, North Dakota 58503, as Procedural Hearing Officer.

Preliminary Statement

On December 22, 2014, Dakota Access, LLC (“Dakota Access”) filed applications for a certificate of corridor compatibility and a route permit (“Consolidated Application”) concerning approximately 358 miles of 12-, 20-, 24-, and 30-inch diameter crude oil pipeline and associated facilities in Mountrail, Williams, McKenzie, Dunn, Mercer, Morton, and Emmons Counties, North Dakota, and terminals near Stanley in Mountrail County, near Tioga in Williams County, near Epping in Williams County, near Trenton in Williams County, near Watford City in McKenzie County, and near Johnsons Corner in McKenzie County (“Project”). The Project will be known as the Dakota Access Pipeline.

On January 20, 2016, the Commission entered its Findings of Fact, Conclusions of Law and Order (“Order”) issuing Certificate of Corridor Compatibility Number 179 and Route Permit Number 191 for the Project.

On April 5, 2016, Dakota Access filed an application to amend Certificate of Corridor Compatibility No. 179 and Route Permit No. 191 for the Project (“Application”).

The Application seeks Commission approval to modify portions of the previously designated corridor and route in Mountrail, Williams, McKenzie, and Dunn Counties. Affected locations in Mountrail County include: Section 31 of Township 156 North, Range 92 West; Sections 31, 32, 33, 34, 35 and 36 of Township 156 North, Range 93 West; and Sections 31, 32, 33, 34 and 36 of Township 156 North, Range 94 West. Affected locations in Williams County include: Sections 1, 2, 3, 4 and 5 of Township 155 North, Range 96 West; Sections 31 and 32 of Township 156 North, Range 96 West; Sections 34, 35 and 36 of Township 156 North, Range 97 West; Sections 3, 4, 5 and 6 of Township 155 North, Range 97 West; Sections 1, 2, 4, 5 and 6 of Township 155 North, Range 98 West; Section 32 of Township 156 North, Range 98 West; Sections 8, 9, 10, 11 and 12 of Township 155 North, Range 100 West; Sections 7, 8, 9, 10, 11 and 18 of Township 155 North, Range 101 West; Sections 27, 34 and 35 of Township 154 North, Range 102 West; and Sections 2, 10 and 11 of Township 153 North, Range 102 West. Affected locations in McKenzie County include: Sections 15, 16, 17, 22 and 23 of Township 151 North, Range 102 West; Section 6 of Township 149 North, Range 98 West; Section 1 of Township 149 North, Range 99 West; Sections 28, 29, 31 and 32 of Township 150 North, Range 98 West; Section 19 of Township 150 North, Range 96 West; and Sections 19, 20, 21, 22, 23 and 24 of Township 150 North, Range 97 West. Affected locations in Dunn County include: Section 2 of Township 147 North, Range 96 West; Sections 13, 23, 24, 26 and 35 of Township 148 North, Range 96 West; Sections 19 and 30 of Township 146 North, Range 94 West; Sections 11, 13, 14 and 24 of Township 146 North, Range 95 West; Section 30 of Township 146 North, Range 93 West; and Sections 25, 26, 27, 28 and 29 of Township 146 North, Range 94 West (hereinafter referred to as the “Amendments”).

Also on April 5, 2016, Dakota Access filed an application for waivers of procedures and time schedules established under North Dakota Century Code sections 49-22-07.2, 49-22-08, 49-22-08.1, 49-22-13 and North Dakota Administrative Code section 69-06-01-02 and chapter 69-06-06, requiring separate filings, separate notices, hearings, and certain time schedules on such applications.

On April 19, 2016, Dakota Access filed supplemental information to the Application. On April 19, 2016, Dakota Access also filed an amended application for waivers of procedures and time schedules, requesting that the Commission waive the Notice of Opportunity for Hearing under North Dakota Century Code section 49-22-07.2.

On April 20, 2016, the Commission deemed the Application complete, and issued a Notice of Filings and Opportunity for Hearing, inviting interested parties to comment or request a hearing by May 19, 2016. The Notice also stated that the Commission can decide the matter without a hearing.

The issues to be considered concerning the proposed corridor and amendments are:

1. Will the location and operation of the proposed facilities produce minimal adverse effects on the environment and upon the welfare of the citizens of North Dakota?
2. Are the proposed facilities compatible with the environmental preservation and the efficient use of resources?
3. Will the proposed facility locations minimize adverse human and environmental impact while ensuring continuing system reliability and integrity and ensuring that energy needs are met and fulfilled in an orderly and timely fashion?

No comments or requests for hearing were received by May 19, 2016.

Having allowed all interested persons an opportunity to be heard, and having reviewed and considered all testimony and evidence presented, the Commission makes the following:

Findings of Fact

1. Dakota Access is a Delaware limited liability company authorized to do business in the State of North Dakota, as evidenced by corporate papers filed with the Commission on February 20, 2015, in Case No. PU-15-102.

Size, Type, and Preferred Location of Facility

2. The Project will consist of 358 miles of 12-, 20-, 24-, and 30-inch diameter steel crude oil pipeline and associated facilities in Mountrail, Williams, McKenzie, Dunn, Mercer, Morton, and Emmons Counties, North Dakota. The Project will also include tank terminals near Stanley in Mountrail County (Stanley Tank Terminal), near Tioga in Williams County (Ramberg Tank Terminal), near Epping in Williams County (Epping Tank Terminal), near Trenton in Williams County (Trenton Tank Terminal), near Watford City in McKenzie County (Watford City Tank Terminal), and near Johnsons Corner in McKenzie County, North Dakota (Johnsons Corner Tank Terminal).
3. The Project will originate at the Stanley Tank Terminal and will exit North Dakota to South Dakota at a point near Westfield, North Dakota.

4. The Project is part of an approximately 1,154-mile-long planned pipeline system that will stretch from near Stanley, North Dakota, to Patoka, Illinois.
5. Above-ground facilities associated with the Project will include approximately 59 block valves, and in-line inspection tool launch and receiver sites.
6. The maximum operating pressure for the pipeline will be 1,400 pounds per square inch throughout the Project.
7. Pipe wall thicknesses will be as follows: 0.375 inches for the 12-inch pipeline, except at crossing sites where the thickness will be 0.500 inches; 0.312 inches for the 20-inch pipeline, except at crossing sites where the thickness will be .0438 inches; 0.375 inches for the 24-inch pipeline, except at crossing sites where the thickness will be 0.625 inches; and 0.429 inches for the 30-inch pipeline, except at the crossing sites where the thickness will be 0.625 inches.
8. The Stanley Tank Terminal will include two 120,000-barrel tanks; the Ramberg Tank Terminal will include one 100,000-barrel, one 150,000-barrel, and one 200,000- barrel tank; the Epping Tank Terminal and the Trenton Tank Terminal will each include one 100,000-barrel and one 150,000-barrel tank; the Watford City Tank Terminal will include two 100-000-barrel and one 150,000-barrel tanks; and the Johnsons Corner Tank Terminal will contain two 200,000-barrel tanks. Each tank terminal site will contain a pump station.
9. The pipeline diameter will be 12 inches between the Stanley Tank Terminal and the Ramberg Tank Terminal, 20 inches between the Ramberg Tank Terminal and the Trenton Tank Terminal, 24 inches between the Trenton Tank Terminal and the Watford City Tank Terminal, and 30 inches from the Watford City Terminal throughout the remainder of its route within North Dakota.
10. The maximum capacity of the Project will be 100,000 barrels per day between the Stanley Tank Terminal and the Ramberg Tank Terminal, 240,000 barrels per day between the Ramberg Tank Terminal and the Epping Tank Terminal, 300,000 barrels per day between the Epping Tank Terminal and the Trenton Tank Terminal, 450,000 barrels per day between the Trenton Tank Terminal and the Watford City Tank Terminal, and 600,000 barrels per day between the Watford City Tank Terminal and the South Dakota border.
11. Dakota Access testified that the design, construction, and operation of the pipeline will be in accordance with the United States Department of Transportation (USDOT) regulations governing the transportation of crude oil, including USDOT regulations as set forth in 49 Code of Federal Regulations Part 195.
12. The total cost of the Project is estimated to be \$1.41 Billion.

Study of Preferred Location

13. Dakota Access evaluated a one-mile-wide study area centered on the route (Study Area) for wetlands and waterbodies, vegetation, trees and shrubs, wildlife, protected species and critical habitats, soils, and geology.
14. Dakota Access conducted field surveys on the tank terminal sites and on a 400- foot-wide area centered on the route for the majority of the Project extent and where survey access was obtained for the purpose of inventorying wetlands and waterbodies, wildlife, protected species, and critical habitats (Survey Area).
15. Dakota Access conducted a Class I cultural resources literature search on the Study Area.
16. Dakota Access conducted a Class III cultural resources field inventory on the Survey Area.
17. Dakota Access conducted a Class III cultural resources field inventory for the route and corridor associated with the Amendments.
18. An environmental analysis and an Exclusion and Avoidance Areas analysis were performed for the corridor and route associated with the Amendments.
19. The following agencies were contacted by Dakota Access: the United States Fish and Wildlife Service (USFWS); the United States Army Corps of Engineers (USACE); the United States Bureau of Reclamation (USBOR); the United States National Park Service; the United States Department of Agriculture, the Natural Resources Conservation Service (NRCS); the United States Department of Agriculture, Farm Service Agency; the United States Air Force (USAF); the North Dakota Parks and Recreation Department (NDPRD); the North Dakota Department of Health (NDDOH); the North Dakota Department of Agriculture; the North Dakota Office of the State Engineer; the North Dakota Department of Trust Lands (NDDTL); the North Dakota Game and Fish Department (NDGFD); the North Dakota State Historic Preservation Office (NDSHPO); the North Dakota State Soil Conservation Committee; the Mountrail County Water Resource District; the Williams County Water Resource District; the McKenzie County Water Resource District; the Dunn County Water Resource District; the Mercer County Water Resource District; the Morton County Water Resource District; the Emmons County Water Resource District; the Mountrail County Weed Control Board; the Williams County Weed Board; the McKenzie County Weed Board; the Dunn County Weed Board; the Mercer County Weed Board; the Morton County Weed Board; and the Emmons County Weed Board.
20. In a response dated November 12, 2014, the USFWS indicated that the route will avoid all USFWS easement interests in Emmons County, North Dakota.
21. In a response dated October 31, 2014, the USBOR requested additional information relating to the crossing of the Buford-Trenton Irrigation District (Buford-Trenton) canal and

drainage works, a federally constructed facility, and further indicated that both the USBOR and Buford-Trenton must approve the crossing request.

22. In a response dated November 17, 2014, the NRCS indicated that there will be no impact to NRCS easements in North Dakota. In a response dated November 21, 2014, the NRCS indicated that crossing private land enrolled in the Conservation Reserve Program (CRP) may not take place between April 15 and August 1 annually without a waiver granted by the NRCS.

23. In a response dated November 18, 2014, the USAF indicated that while the Project will not intersect restrictive easements surrounding intercontinental ballistic missile facilities, buried USAF cable will be crossed three times. In a response dated November 19, 2014, the USAF indicated that USAF personnel must be present during excavation that may impact buried USAF cable at the three crossings.

24. In a response dated December 10, 2014, the NDPRD indicated that the Project will not affect state park lands managed by the NDPRD. The NDPRD further indicated that Land and Water Conservation Fund and federally funded recreation trail projects coordinated by the NDPRD are present within the Study Area, and that species of concern and significant ecological communities have been documented within and adjacent to the Study Area. The NDPRD recommended construction be completed in a manner that minimizes visual impact to scenic byways and that impacted areas be revegetated with species native to the Project area.

25. In a response dated December 4, 2014, the Dunn County Weed Board recommended that any areas to be excavated as part of the Project be inspected prior to excavation and for three years post-construction, and also that any noxious or invasive weeds present be chemically treated.

26. In responses dated February 19, 2016, the NDSHPO concurred with the findings set forth in the Class III cultural resources inventory report for portions of the Project and the Amendments, as well as approving the Preliminary Results of the Proposed Evaluative Testing for Eligible Sites, the Evaluation and Mitigation Plan for Cultural Resources, and the Unanticipated Discoveries Plan.

27. In responses dated April 22, 2016, the NDSHPO found acceptable the Preliminary Results of Proposed Evaluative Testing for Eligible Sites and the Preliminary Mitigation Report.

28. In responses dated April 26, 2016, the NDSHPO concurred with the findings set forth in the Class III cultural resources inventory report for USACE lands/permit areas and USFWS permit areas.

Siting Criteria

29. The Commission has established criteria pursuant to North Dakota Century Code section 49-22-05.1 to guide the Commission in evaluating the suitability of granting a certificate of corridor compatibility and route permit. The criteria, as set forth in North Dakota Administrative Code section 69-06-08-02, are classified as Exclusion Areas, Avoidance Areas, Selection

Criteria, and Policy Criteria. Dakota Access evaluated the Project with respect to the Exclusion, Avoidance, Selection, and Policy criteria of the Commission.

30. An Exclusion Area may not encompass more than fifty percent of a corridor width unless there is no reasonable alternative. An Exclusion Area must be excluded in the consideration of a route for a transmission facility. A buffer zone to protect the integrity of the Exclusion Area must be included. A transmission facility route must not be sited within an Exclusion Area.

31. Dakota Access testified that 509 cultural resource sites were identified during the Class III field survey on those areas where survey access was obtained. Dakota Access further testified that survey results will be provided to NDSHPO for review as information becomes available, and that Dakota Access will work with NDSHPO to avoid and mitigate impacts to cultural resources.

32. Areas critical to the life stages of threatened or endangered animal or plant species are considered to be Exclusion Areas. The Missouri River in North Dakota has been designated by the USFWS as critical habitat for both the interior least tern, an endangered avian species, and the piping plover, a threatened avian species. Dakota Access testified that the Project will be bored beneath the Missouri River and its adjacent uplands in order to protect the integrity of this Exclusion Area.

33. No other Exclusion Areas are present within the Survey Area.

34. No Exclusion Areas will be impacted by the Amendments.

35. An Avoidance Area is a geographical area that may not be considered in the routing of a transmission facility unless the applicant shows that, under the circumstances, there is no reasonable alternative. In determining whether an Avoidance Area should be designated for a transmission facility, the Commission may consider, among other things, the proposed management of adverse impacts, the orderly siting of facilities, system reliability and integrity, the efficient use of resources, and alternative routes.

36. A transmission facility route may not be sited within an Avoidance Area unless the applicant demonstrates that under the circumstances there is no reasonable alternative. Economic considerations alone are not sufficient to establish no reasonable alternative.

37. The route will cross the Little Missouri River, which has been designated a State Scenic River. Dakota Access testified that the crossing will be bored in order to protect the integrity of this Avoidance Area. The Little Missouri River stretches from near the southwest corner of North Dakota's border with South Dakota to Lake Sakakawea. The Commission finds there is no reasonable alternative to the proposed route crossing this Avoidance Area.

38. The route will cross the City of Williston's wellhead protection area at an extension along its northern edge for a distance of approximately 1.5 miles. Dakota Access indicated that isolating valves will be installed along the route in this high consequence area as required by PHMSA in order to minimize potential impacts. In order to reach the proposed Trenton Tank

Terminal site while circumventing the majority of the wellhead protection area, the Commission finds there is no reasonable alternative to the proposed route crossing this Avoidance Area.

39. Two North Dakota-designated scenic byways, North Dakota Highway 22 and United States Highway 10, will be crossed by the route. Both crossings will be bored, and Dakota Access indicated that visual impacts will be temporary and relate only to Project construction, as no permanent above-ground structures will be installed at either scenic byway crossing. Because of the extensive nature of these scenic byways, the Commission finds no reasonable alternative to the proposed route crossing these Avoidance Areas.

40. Dakota Access indicated that there are four businesses and eight rural residences located within 500 feet of the route. Dakota Access has obtained waivers from all property owners of these businesses and rural residences and has provided copies of the waivers in this proceeding.

41. The Commission has determined that a portion of proposed Reroute Location 50, which is located in Section 35, Township 148 North, Range 96 West, Dunn County, crosses an area of known geologic instability, an Avoidance Area. The Commission has requested that Dakota Access file with the Commission a plan which includes mitigative measures through the area or an agreement to utilize boring techniques through the geologically unstable area. Dakota Access must also file information with the Commission to allow for a determination of whether there is a reasonable alternative to the proposed route crossing this Avoidance Area.

42. No other Avoidance Areas will be impacted by the Amendments, subject to further review of Reroute Location 50 by the Commission for a determination of no reasonable alternative route.

43. In accordance with the Commission's Selection Criteria, a transmission facility route shall be designated if it is demonstrated that any significant adverse effects resulting from the location, construction, and maintenance of the transmission facility will be at an acceptable minimum, or will be managed and maintained at an acceptable minimum.

44. Federally jurisdictional wetland and waterbody crossings will be subject to oversight through the USACE's Nationwide 12 and Section 10 permitting processes.

45. Dakota Access testified that it will work with landowners to minimize impacts to irrigated lands, and will compensate landowners for any associated losses.

46. Dakota Access has analyzed the impacts of the Project in relation to all of the relevant Selection Criteria. No significant adverse impact will result from the location, construction, and operation of the Project.

Measures to Minimize Impact

47. Dakota Access testified that a supervisory control and data acquisition system (SCADA) will be installed as part of the Project, and operations will be continuously monitored by a control center located in Houston, Texas.

48. Dakota Access testified that all valves will be installed with remote actuators to allow them to be closed remotely from the control center in the event of an emergency.
49. Dakota Access testified that 100% of all field welds will be tested.
50. Dakota Access testified that pumps will be located at pump terminals within enclosed and insulated buildings to minimize noise.
51. Dakota Access indicated that emergency response equipment will be located in Epping, Williston, Watford City, and Bismarck, North Dakota.
52. Dakota Access testified that it will participate in the North Dakota One-Call notification system.
53. Dakota Access testified that it will contract with a third-party inspection firm to ensure regulatory and environmental compliance.
54. Dakota Access testified that one USFWS grassland easement will be crossed by the route, and that this area will be bored to protect its integrity.
55. Dakota Access testified that the Missouri River will be bored at both locations where it is crossed by the route. The estimated depth of the bore beneath the river bed is 35 feet at its northern crossing and 64 feet at its southern crossing. Dakota Access further testified that the Little Missouri River, the Knife River, the Heart River, and both crossings of Cherry Creek will also be bored in order to minimize environmental impacts to those waterbodies.
56. Dakota Access has committed to protecting the integrity of wetlands and waterbodies crossed by the route by using best management practices in order to minimize erosion and to prevent sediment discharge, which will include minimizing the footprint of environmental disturbance by reducing the workspace; maintaining vegetative barriers; and installing sediment barriers, trench plugs, and slope breakers as necessary.
57. Construction activities that may impact federally protected species and critical habitats will be subject to oversight by the USFWS through its Section 7 consultation process.
58. Where colocation of the Project occurs with North Dakota Pipeline Company's (NDPL) permitted routes, Dakota Access and NDPL have agreed as to pipeline separation distances, the width and restoration of temporary work space buffer zones, and communications protocol, as described in NDPL's January 7, 2016, filing in this proceeding.
59. Dakota Access has agreed to a number of steps to mitigate the impact of the Project as indicated by the Certification Relating to Order Provisions - Transmission Facility Siting with accompanying Tree and Shrub Mitigation Specifications filed in this proceeding, which is incorporated by reference and attached to this Order.

From the foregoing Findings of Fact, the Commission makes the following conclusions of law:

Conclusions of Law

1. The Commission has jurisdiction over Dakota Access and the subject matter of these applications under North Dakota Century Code chapter 49-22.
2. Dakota Access is a utility as defined in North Dakota Century Code section 49-22-03(13).
3. The Project is a transmission facility as defined in North Dakota Century Code section 49-22-03(12).
4. The location, construction, and operation of the Project will produce minimal adverse effects on the environment and upon the welfare of the citizens of North Dakota.
5. The location, construction, and operation of the Project is compatible with the environmental preservation and the efficient use of resources.
6. The Project will minimize adverse human and environmental impact while ensuring continuing system reliability and integrity and ensuring that energy needs are met and fulfilled in an orderly and timely fashion.
7. The Project is of such design and location that it will produce minimal adverse effects, as defined under North Dakota Century Code section 49-22-07.2.
8. It is appropriate for the Commission to waive those certain procedures and time schedules as requested in the waiver application under North Dakota Century Code section 49-22-07.2.

From the Findings of Fact and Conclusions of Law, the Commission makes the following order:

Order

The Commission orders:

1. Dakota Access' application for a waiver of procedures and time schedules is granted.
2. Amended Certificate of Corridor Compatibility No. 179 is issued to Dakota Access, designating a corridor for the construction, operation, and maintenance of approximately 358 miles of 12-, 20-, 24-, and 30-inch diameter crude oil pipeline and associated facilities in Mountrail, Williams, McKenzie, Dunn, Mercer, Morton, and Emmons Counties; the Stanley Tank Terminal in Mountrail County; the Ramberg Tank Terminal, the Epping Tank Terminal, and the Trenton Tank Terminal in Williams County; and the Watford City Tank Terminal and

the Johnsons Corner Tank Terminal in McKenzie County, North Dakota. The Corridor will consist of the tank terminal sites as depicted in Exhibit A of the Consolidated Application, "Project Aerial Maps", and a 400-wide area centered on the route. Amended Certificate of Corridor Compatibility No. 179 is updated as depicted in Amended Appendix A to the Application filed on April 19, 2016, subject to the special condition described below with respect to Reroute Location 50.

3. Amended Route Permit No. 191 is issued to Dakota Access, designating a route for the construction, operation, and maintenance of approximately 358 miles of 12-, 20-, 24-, and 30-inch diameter crude oil pipeline and associated facilities in Mountrail, Williams, McKenzie, Dunn, Mercer, Morton, and Emmons Counties, North Dakota. The designated route for this purpose is depicted in Exhibit A of the Consolidated Application, "Project Aerial Maps", as revised by the route adjustments depicted in Dakota Access' September 14, 2015 (Seventeen Adjustments) and December 2, 2015 (Hovde Reroute) filings, and as revised by the route adjustments depicted in Amended Appendix A to the Application filed on April 19, 2016, subject to the special condition described below with respect to Reroute Location 50.

4. The Certificate of Corridor Compatibility and the Route Permit shall be subject to and include the special condition that with respect to Reroute Location 50, a portion of which is located in an area of known geologic instability in Section 35, Township 148 North, Range 96 West, Dakota Access must file with the Commission a plan which includes mitigative measures through the area or an agreement to utilize boring techniques through the geologically unstable area. Dakota Access must also file information with the Commission to allow for the Commission to determine whether there is a reasonable alternative to the proposed route crossing this Avoidance Area.

5. The May 20, 2015, Certification Relating to Order Provisions - Transmission Facility Siting (Certification), with accompanying Tree and Shrub Mitigation Specifications, is incorporated by reference and attached to this Order.

6. To the extent that there are any conflicts or inconsistencies between Dakota Access' applications in this proceeding and the Certification, the Certification provisions control.

7. Dakota Access shall file with the Commission documentation from NDSHPO indicating concurrence that no historic properties or sites will be affected prior to beginning construction on any portion of the Project where SHPO concurrence has not yet been received.

8. Dakota Access and NDPL have agreed to pipeline separation distances, the width and restoration of temporary work space buffer zones, and communications protocol concerning the Project and NDPL's permitted routes, as described in NDPL's January 7, 2016, filing in this proceeding, and amended by the January 20, 2016 filing.

9. Dakota Access is required to comply with all applicable laws, rules, and/or regulations in the event it desires to construct another or a different transmission facility than was specified in the application within the corridor granted in this proceeding.

10. Dakota Access shall comply with all rules and regulations of all agencies having jurisdiction over any phase of the Project, and shall obtain and file with the Commission prior to beginning construction all necessary licenses and permits for construction of any portion of the Project for which the license or permit is required.

**State of North Dakota
Public Service Commission**

**Randy Christmann
Commissioner**

**Julie Fedorchak
Chairman**

**Brian Kalk
Commissioner**

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